

# Congress of the United States

Washington, DC 20515

December 12, 2013

1230

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

Dear Chairman Wheeler,

We respectfully ask that the Federal Communications Commission (FCC) not open the door to wireless voice services being used by passengers on airplanes above 10,000 feet. It has come to our attention that on December 12<sup>th</sup> the FCC will consider a Notice of Proposed Rulemaking to revise current rules governing mobile wireless services on airplanes. We are in support of new options for airline passengers to safely use wireless data for non-voice services such as text messaging, email, and internet browsing; but we are adamantly opposed to the use of cellular voice services during flights.

The majority of Americans have rejected the idea of cell phone calls during flights. Numerous polls, including a 2012 Apex/CEA poll, have shown that over 60% of Americans are opposed to the idea. Some polls, such as a recent Today Show instant poll, have shown overwhelming 90% opposition. Regardless of technological feasibility, it is evident that Americans do not want to fly in a cabin full of people talking on cell phones.

Even if the FCC were to find that cell phones on airplanes did not cause any signal interference, airborne cell phone conversations would have other safety implications. It has been demonstrated that people talking on cell phones were much less likely to aid someone in need\*. Numerous other studies have demonstrated that cell phone conversations are particularly irritating and distracting to people nearby. The combination of these factors could make it much more difficult for crewmembers to give instructions and count on passenger assistance during an emergency. Altercations between passengers over cell phone use could also result in flight attendants having to act as referees to mitigate "air rage."

As is stated on your website, the FCC provides "leadership for consumers, public safety, accessibility, competition and technological and economic opportunity." We urge you to not forget about the first item on that list, American consumers. Consumers would benefit from new opportunities to use wireless devices for non-voice activities on airplanes, but they have made clear that they do not want their seatmate to be talking on a cell phone for the entire

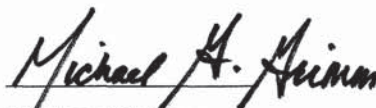
\* Banjo, Hu, and Sundar (2008). Cell Phone Usage and Social Interaction with Proximate Others. Penn State University.

flight. In light of public opinion and potential safety implications, we ask that you reject any proposal to permit airline passengers to use cellular voice services on airborne planes.

Sincerely,



Peter DeFazio  
Member of Congress



Michael Grimm  
Member of Congress



Timothy H. Bishop  
Member of Congress



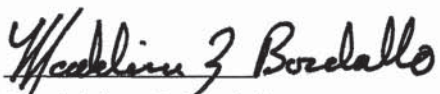
Julia Brownley  
Member of Congress



Earl Blumenauer  
Member of Congress



Lois Capps  
Member of Congress



Madeleine Z. Bordallo  
Member of Congress



Michael E. Capuano  
Member of Congress



Robert A. Brady  
Member of Congress



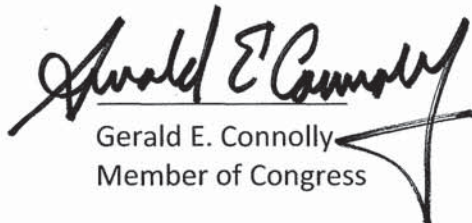
Steve Cohen  
Member of Congress



Jim Cooper  
Member of Congress



Sam Farr  
Member of Congress



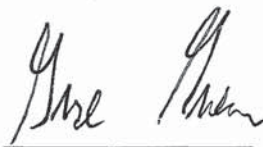
Gerald E. Connolly  
Member of Congress



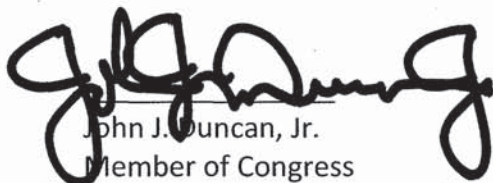
Tulsi Gabbard  
Member of Congress



Jim Costa  
Member of Congress



Gene Green  
Member of Congress



John J. Duncan, Jr.  
Member of Congress



Raul M. Grijalva  
Member of Congress




Keith Ellison  
Member of Congress



Janice Hahn  
Member of Congress




Elizabeth H. Esty  
Member of Congress



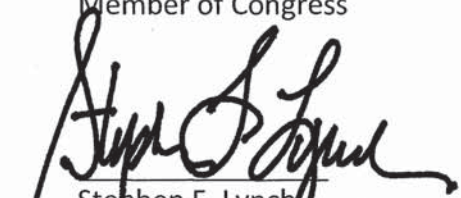
Michael M. Honda  
Member of Congress




  
Henry C. Johnson,  
Member of Congress

  
David Loebuck  
Member of Congress

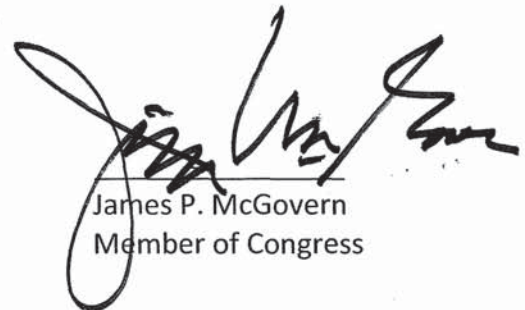
  
Walter B. Jones  
Member of Congress

  
Stephen F. Lynch  
Member of Congress

  
David P. Joyce  
Member of Congress

  
Betty McCollum  
Member of Congress

  
William R. Keating  
Member of Congress

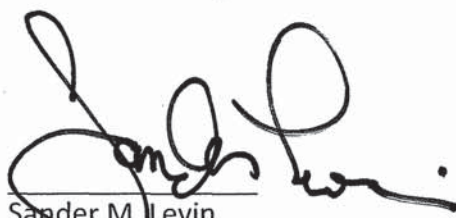
  
James P. McGovern  
Member of Congress

  
Derek Kilmer  
Member of Congress


  
David B. McKinley  
Member of Congress

  
Barbara Lee  
Member of Congress

  
Ann McLane Kuster  
Member of Congress

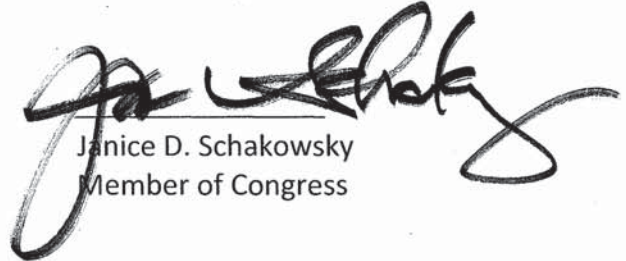
  
Sander M. Levin  
Member of Congress

  
Patrick Meehan  
Member of Congress


  
Michael H. Michaud  
Member of Congress


  
C.A. Dutch Ruppersberger  
Member of Congress

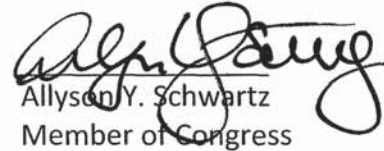
  
George Miller  
Member of Congress


  
Janice D. Schakowsky  
Member of Congress

  
Patrick Murphy  
Member of Congress

  
Aaron Schock  
Member of Congress

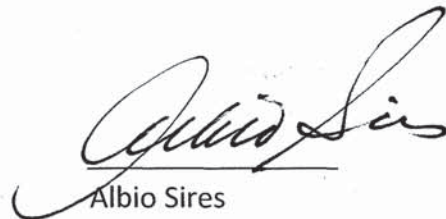
  
Richard M. Nolan  
Member of Congress

  
Allyson Y. Schwartz  
Member of Congress

  
Charles B. Rangel  
Member of Congress

  
Carol Shea-Porter  
Member of Congress

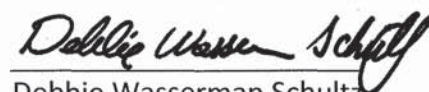
  
Lucille Roybal-Allard  
Member of Congress

  
Albio Sires  
Member of Congress

  
Jackie Speier  
Member of Congress

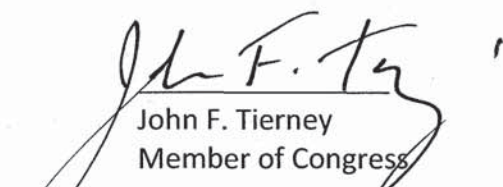
  
Marc A. Veasey  
Member of Congress

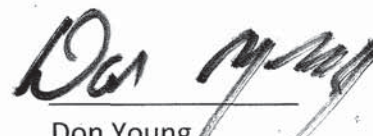
  
Eric Swalwell  
Member of Congress


  
Debbie Wasserman Schultz  
Member of Congress

  
Mark Takano  
Member of Congress

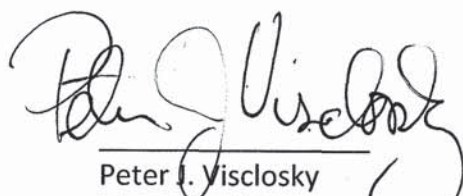
  
Frederica S. Wilson  
Member of Congress

  
John F. Tierney  
Member of Congress

  
Don Young  
Member of Congress

  
Tina Titus  
Member of Congress

  
Paul D. Tonko  
Member of Congress

  
Peter J. Visclosky  
Member of Congress

  
Peter Welch  
Member of Congress

A handwritten signature in black ink, appearing to read "Adam Smith". The signature is stylized with a large initial "A" and a long, sweeping underline.

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Adam Smith  
Member of Congress





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 8, 2014

The Honorable Earl Blumenauer  
U.S. House of Representatives  
1111 Longworth House Office Building  
Washington, DC 20515

Dear Congressman Blumenauer:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

It is true that in-flight technology has been transformed over the past several years, and that passenger use of mobile devices could provide access to a wide range of in-flight communications applications, including text, e-mail, and data applications. It is also true that current technology offers airlines the flexibility to deploy a system that can allow data only.

The FCC's December *NPRM* represented the beginning of a process to consider whether and how we should revise our rules to account for new technology and to improve consumers' access to mobile wireless services onboard aircraft. As a first step in that process, we are collecting information and soliciting the views of consumers and other stakeholders on an array of questions that will assist us in determining if any modifications to our rules would serve the public interest. However, even if the record leads the Commission to update our rules, it will be the airlines' decision, in consultation with their customers and subject to applicable Department of Transportation (DoT) and Federal Aviation Administration (FAA) rules, whether or not to permit the use of data, text and/or voice services while airborne.

There are several key aspects to the Commission's proposal. First, we propose to harmonize our rules by expanding the current restriction on in-flight use of cellphones operating in the 800 MHz band to cover all mobile communications services in all mobile wireless bands. That the current rules do not apply to phones operating in other cellular frequencies represents a regulatory inconsistency that is poor policy.

Second, we propose to modernize our rules by permitting airlines using FAA-certified airborne access systems to decide, consistent with DoT and FAA rules, whether and how to make in-flight mobile wireless services available to their customers. As the expert agency on communications, it is the FCC's role to examine continuously our rules in light of such technology developments and to eliminate unnecessary or outdated regulations where



appropriate. The principal reason the Commission adopted its existing rule was out of a concern that such use onboard an aircraft could interfere with a terrestrial network on the ground. Today, new airborne access systems, which have been in use for a number of years by airlines in other countries, capably manage the mobile device's signal so that it does not cause interference to cell phone networks on the ground.

In light of these recent technological advances, the Commission is obligated to examine whether our existing restrictions on airborne use remain necessary to prevent harmful interference to mobile networks on the ground. Accordingly, the Commission is seeking comment on whether such airborne access systems can be used by airlines to effectively manage mobile broadband-capable devices operating on U.S. cellular bands. This proposal would replace current restrictions – which affect some, but not all, mobile bands – with a consistent regulatory framework that explicitly prohibits airborne use of cellular services in all frequency bands unless an aircraft is equipped with an airborne access system and is complying with all applicable DoT and FAA requirements.

Consistent with the views expressed in your letter, initial public response to the *NPRM* largely has focused on the possibility that modernizing our rules would open the door to allow passengers to make voice calls during flight. Many are concerned that adoption of this proposal would result in a less-enjoyable travel experience caused by other passengers engaging in unreasonably loud phone conversations during flight. These are not unreasonable concerns. As a frequent airline passenger, I would prefer that voice calls not be made on planes. However, it is the responsibility of the Commission to ensure, to the greatest degree we can, that our rules are based on sound *technological* judgments.

If the Commission determines that airborne mobile use is possible without negative effects to cellular networks, the *airlines*, under the FCC's proposal, would have the ultimate say as to whether and how to provide service using cellular airborne access systems, subject to applicable DoT and FAA rules. In fact nothing in this proposal would limit the ability of airlines to ban voice conversations in-flight. For example, an airline could choose to not offer voice service at all and to only provide data communications so that passengers can experience the kind of data-focused activities that you mention: surf the Web, send and receive text messages and email, or access social media to stay connected to friends and family.

Moreover, issues regarding passenger impact are more appropriately resolved by the DOT's Office of the Secretary (OST), which oversees aviation consumer protection issues, and the FAA, which has authority over safety issues. In this regard, OST recently issued an Advance Notice of Proposed Rulemaking (ANPRM) to examine the issue of air passengers' airborne use of mobile wireless devices for voice calls. The ANPRM seeks comment on whether allowing in-flight voice communications is unfair to consumers and, if so, whether such use should be banned or restricted. I am fully supportive of that examination.

Additionally, the FAA is actively engaged in this matter to the extent it impacts airline safety or operations. Earlier this year the FAA released a Congressionally-mandated report titled *Study on the Use of Cell Phones on Passenger Aircraft* indicating that foreign civil aviation authorities in numerous countries where such technology has already been deployed reported “no documented occurrences of cell phones affecting flight safety on aircraft with on-board cellular telephone base stations.” The study found that “[n]one of the civil aviation authorities reported any cases of air rage or flight attendant interference related to passengers using cell phones on aircraft equipped with on-board cellular telephone base stations.”<sup>1</sup>

Congress can also address whether in-flight voice calls should be banned. Two bills have been introduced, H.R 3676 and S.1811, that would ban voice calls on flights. H.R 3676 has been reported out of the House Committee on Transportation and Infrastructure. The Commission is ready to offer technical assistance on these bills and any other similar legislation.

There will be months of public comment and debate on the specific issues raised in the *NPRM* prior to any adoption of final rules. We hope that all interested stakeholders, including the airlines, flight attendants, pilots, the flying public, and others will review our draft proposal closely and engage in our rulemaking process.

Once again, thank you for apprising me of your views on this important matter. Please let me know if there is any additional information about this matter I can provide. We will place your inquiry in the record of this proceeding.

Sincerely,



Tom Wheeler

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<sup>1</sup> Section 410 in the FAA Modernization and Reform Act of 2012 (Public Law 112-95) directed the Administrator of the FAA to conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation. Section 410 directed the study to include a review of foreign government and air carrier policies on the use of cell phones during flight; a review of the extent to which passengers use cell phones for voice communications during flight; and a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 8, 2014

The Honorable Madeleine Bordallo  
U.S. House of Representatives  
2441 Rayburn House Office Building  
Washington, DC 20515

Dear Congresswoman Bordallo:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

It is true that in-flight technology has been transformed over the past several years, and that passenger use of mobile devices could provide access to a wide range of in-flight communications applications, including text, e-mail, and data applications. It is also true that current technology offers airlines the flexibility to deploy a system that can allow data only.

The FCC's December *NPRM* represented the beginning of a process to consider whether and how we should revise our rules to account for new technology and to improve consumers' access to mobile wireless services onboard aircraft. As a first step in that process, we are collecting information and soliciting the views of consumers and other stakeholders on an array of questions that will assist us in determining if any modifications to our rules would serve the public interest. However, even if the record leads the Commission to update our rules, it will be the airlines' decision, in consultation with their customers and subject to applicable Department of Transportation (DoT) and Federal Aviation Administration (FAA) rules, whether or not to permit the use of data, text and/or voice services while airborne.

There are several key aspects to the Commission's proposal. First, we propose to harmonize our rules by expanding the current restriction on in-flight use of cellphones operating in the 800 MHz band to cover all mobile communications services in all mobile wireless bands. That the current rules do not apply to phones operating in other cellular frequencies represents a regulatory inconsistency that is poor policy.

Second, we propose to modernize our rules by permitting airlines using FAA-certified airborne access systems to decide, consistent with DoT and FAA rules, whether and how to make in-flight mobile wireless services available to their customers. As the expert agency on communications, it is the FCC's role to examine continuously our rules in light of such technology developments and to eliminate unnecessary or outdated regulations where



appropriate. The principal reason the Commission adopted its existing rule was out of a concern that such use onboard an aircraft could interfere with a terrestrial network on the ground. Today, new airborne access systems, which have been in use for a number of years by airlines in other countries, capably manage the mobile device's signal so that it does not cause interference to cell phone networks on the ground.

In light of these recent technological advances, the Commission is obligated to examine whether our existing restrictions on airborne use remain necessary to prevent harmful interference to mobile networks on the ground. Accordingly, the Commission is seeking comment on whether such airborne access systems can be used by airlines to effectively manage mobile broadband-capable devices operating on U.S. cellular bands. This proposal would replace current restrictions – which affect some, but not all, mobile bands – with a consistent regulatory framework that explicitly prohibits airborne use of cellular services in all frequency bands unless an aircraft is equipped with an airborne access system and is complying with all applicable DoT and FAA requirements.

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Moreover, issues regarding passenger impact are more appropriately resolved by the DOT's Office of the Secretary (OST), which oversees aviation consumer protection issues, and the FAA, which has authority over safety issues. In this regard, OST recently issued an Advance Notice of Proposed Rulemaking (ANPRM) to examine the issue of air passengers' airborne use of mobile wireless devices for voice calls. The ANPRM seeks comment on whether allowing in-flight voice communications is unfair to consumers and, if so, whether such use should be banned or restricted. I am fully supportive of that examination.

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Once again, thank you for apprising me of your views on this important matter. Please let me know if there is any additional information about this matter I can provide. We will place your inquiry in the record of this proceeding.

Sincerely,



Tom Wheeler

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<sup>3</sup> Section 410 in the FAA Modernization and Reform Act of 2012 (Public Law 112-95) directed the Administrator of the FAA to conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation. Section 410 directed the study to include a review of foreign government and air carrier policies on the use of cell phones during flight; a review of the extent to which passengers use cell phones for voice communications during flight; and a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 8, 2014

The Honorable Robert Brady  
U.S. House of Representatives  
102 Cannon House Office Building  
Washington, DC 20515

Dear Congressman Brady:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

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Sincerely,

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Tom Wheeler

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<sup>5</sup> Section 410 in the FAA Modernization and Reform Act of 2012 (Public Law 112-95) directed the Administrator of the FAA to conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation. Section 410 directed the study to include a review of foreign government and air carrier policies on the use of cell phones during flight; a review of the extent to which passengers use cell phones for voice communications during flight; and a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 8, 2014

The Honorable Julia Brownley  
U.S. House of Representatives  
1019 Longworth House Office Building  
Washington, DC 20515

Dear Congresswoman Brownley:

Thank you for contacting me regarding the Commission's proposal to modernize and harmonize its rules governing in-flight wireless services. I welcome your comments on this issue, and appreciate the opportunity to clarify the limited, technology-focused *Notice of Proposed Rulemaking (NPRM)* the Commission approved on December 12, 2013. I also appreciate your support for the Commission's process, and recognition that appropriate actions can be taken to modernize an outdated technological rule and enable in-flight connectivity options that are available elsewhere in the world to be available in the United States.

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The FCC's December *NPRM* represented the beginning of a process to consider whether and how we should revise our rules to account for new technology and to improve consumers' access to mobile wireless services onboard aircraft. As a first step in that process, we are collecting information and soliciting the views of consumers and other stakeholders on an array of questions that will assist us in determining if any modifications to our rules would serve the public interest. However, even if the record leads the Commission to update our rules, it will be the airlines' decision, in consultation with their customers and subject to applicable Department of Transportation (DoT) and Federal Aviation Administration (FAA) rules, whether or not to permit the use of data, text and/or voice services while airborne.

There are several key aspects to the Commission's proposal. First, we propose to harmonize our rules by expanding the current restriction on in-flight use of cellphones operating in the 800 MHz band to cover all mobile communications services in all mobile wireless bands. That the current rules do not apply to phones operating in other cellular frequencies represents a regulatory inconsistency that is poor policy.

Second, we propose to modernize our rules by permitting airlines using FAA-certified airborne access systems to decide, consistent with DoT and FAA rules, whether and how to make in-flight mobile wireless services available to their customers. As the expert agency on communications, it is the FCC's role to examine continuously our rules in light of such technology developments and to eliminate unnecessary or outdated regulations where



appropriate. The principal reason the Commission adopted its existing rule was out of a concern that such use onboard an aircraft could interfere with a terrestrial network on the ground. Today, new airborne access systems, which have been in use for a number of years by airlines in other countries, capably manage the mobile device's signal so that it does not cause interference to cell phone networks on the ground.

In light of these recent technological advances, the Commission is obligated to examine whether our existing restrictions on airborne use remain necessary to prevent harmful interference to mobile networks on the ground. Accordingly, the Commission is seeking comment on whether such airborne access systems can be used by airlines to effectively manage mobile broadband-capable devices operating on U.S. cellular bands. This proposal would replace current restrictions – which affect some, but not all, mobile bands – with a consistent regulatory framework that explicitly prohibits airborne use of cellular services in all frequency bands unless an aircraft is equipped with an airborne access system and is complying with all applicable DoT and FAA requirements.

Consistent with the views expressed in your letter, initial public response to the *NPRM* largely has focused on the possibility that modernizing our rules would open the door to allow passengers to make voice calls during flight. Many are concerned that adoption of this proposal would result in a less-enjoyable travel experience caused by other passengers engaging in unreasonably loud phone conversations during flight. These are not unreasonable concerns. As a frequent airline passenger, I would prefer that voice calls not be made on planes. However, it is the responsibility of the Commission to ensure, to the greatest degree we can, that our rules are based on sound *technological* judgments.

If the Commission determines that airborne mobile use is possible without negative effects to cellular networks, the *airlines*, under the FCC's proposal, would have the ultimate say as to whether and how to provide service using cellular airborne access systems, subject to applicable DoT and FAA rules. In fact nothing in this proposal would limit the ability of airlines to ban voice conversations in-flight. For example, an airline could choose to not offer voice service at all and to only provide data communications so that passengers can experience the kind of data-focused activities that you mention: surf the Web, send and receive text messages and email, or access social media to stay connected to friends and family.

Moreover, issues regarding passenger impact are more appropriately resolved by the DOT's Office of the Secretary (OST), which oversees aviation consumer protection issues, and the FAA, which has authority over safety issues. In this regard, OST recently issued an Advance Notice of Proposed Rulemaking (ANPRM) to examine the issue of air passengers' airborne use of mobile wireless devices for voice calls. The ANPRM seeks comment on whether allowing in-flight voice communications is unfair to consumers and, if so, whether such use should be banned or restricted. I am fully supportive of that examination.

Additionally, the FAA is actively engaged in this matter to the extent it impacts airline safety or operations. Earlier this year the FAA released a Congressionally-mandated report titled *Study on the Use of Cell Phones on Passenger Aircraft* indicating that foreign civil aviation authorities in numerous countries where such technology has already been deployed reported “no documented occurrences of cell phones affecting flight safety on aircraft with on-board cellular telephone base stations.” The study found that “[n]one of the civil aviation authorities reported any cases of air rage or flight attendant interference related to passengers using cell phones on aircraft equipped with on-board cellular telephone base stations.”<sup>7</sup>

Congress can also address whether in-flight voice calls should be banned. Two bills have been introduced, H.R 3676 and S.1811, that would ban voice calls on flights. H.R 3676 has been reported out of the House Committee on Transportation and Infrastructure. The Commission is ready to offer technical assistance on these bills and any other similar legislation.

There will be months of public comment and debate on the specific issues raised in the *NPRM* prior to any adoption of final rules. We hope that all interested stakeholders, including the airlines, flight attendants, pilots, the flying public, and others will review our draft proposal closely and engage in our rulemaking process.

Once again, thank you for apprising me of your views on this important matter. Please let me know if there is any additional information about this matter I can provide. We will place your inquiry in the record of this proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wheeler", with a stylized, cursive script.

Tom Wheeler

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<sup>7</sup> Section 410 in the FAA Modernization and Reform Act of 2012 (Public Law 112-95) directed the Administrator of the FAA to conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation. Section 410 directed the study to include a review of foreign government and air carrier policies on the use of cell phones during flight; a review of the extent to which passengers use cell phones for voice communications during flight; and a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 8, 2014

The Honorable Lois Capps  
U.S. House of Representatives  
2231 Rayburn House Office Building  
Washington, DC 20515

Dear Congresswoman Capps:

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